



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

KMT:TH/MKP
F. #2017R01840

*271 Cadman Plaza East
Brooklyn, New York 11201*

January 23, 2019

By Hand and ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Keith Raniere, et al.
Criminal Docket No. 18-204 (NGG) (S-1)

Dear Judge Garaufis:

The government respectfully submits this letter to address the defendants' sealing of certain pretrial motions filed on January 9 and 10, 2019. (Docket Nos. 269, 271-274 and 275-277). In an abundance of caution, the government has filed its opposition to the defendants' motions under seal. (Docket Nos. 299, 300). However, in the government's view, the parties' submissions related to these motions should be unsealed, either in part or in full. See Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 124 (2d Cir. 2006) ("[C]ontinued sealing of . . . documents may be justified only with specific, on-the-record findings that sealing is necessary to preserve higher values and only if the sealing order is narrowly tailored to achieve that aim."). The government addresses each set of sealed filings in turn and what, if any, relief it seeks from the Court.

First, Clare Bronfman, Kathy Russell and Nancy Salzman's motion for severance and accompanying briefing (Docket Nos. 275-277) were filed entirely under seal.¹ Aside from the exhibits appended to the motion, a reference to certain individuals' medical history and a few descriptions of collateral that have not been publicly disclosed, there appears to be no compelling reason to seal the severance motion. See, e.g., United States v. Cicale, No. 05-CR-60-2 (NGG), 2018 WL 388941, at *5 (E.D.N.Y. Jan. 11, 2018) (ordering documents unsealed subject to specified redactions). In an abundance of caution, the government has filed its opposition under seal. However, the government respectfully

¹ Lauren Salzman's motion for severance (Docket No. 267) was not filed under seal.

requests that the Court order the government's opposition, filed as Docket No. 299, be unsealed immediately. In the alternative, the government respectfully requests to be heard on this issue at the parties' next scheduled appearance before the Court.

Second, Clare Bronfman's motion to suppress (Docket Nos. 271-274), and Keith Raniere's motion to suppress and for a Franks hearing (Docket No. 269) were all filed entirely under seal. The government agrees that limited portions of these motions and accompanying exhibits were properly sealed in accordance with the protective order issued by the Honorable Vera M. Scanlon on December 17, 2019. (Docket No. 246). However, the government does not believe that sealing the documents in full is mandated by Judge Scanlon's order, or proper. In Raniere's memorandum of law in support of these motions, he requested the government's response be filed under seal. (Docket No. 269 at 1 n.1). As a courtesy, the government has filed its memorandum in opposition under seal, but it will provide a proposed public filing with redactions to Raniere's and Bronfman's counsel tomorrow for their review.

On a separate but related issue, Kathy Russell filed her memorandum of law in support of her motion to dismiss the Superseding Indictment with limited redactions. (Docket No. 270). Russell filed her memorandum with redactions to conceal direct quotes to the grand jury transcript after conferral with the government. (Docket No. 283). The government's opposition to Russell's motion (Docket No. 301) also has limited redactions to conceal grand jury testimony. In the government's view, these redactions are appropriate and the government therefore requests that the court make on-the-record findings to support the proposed redactions. See United States v. Amodeo, 44 F.3d 141, 147 (2d Cir. 1995).

Respectfully submitted,

RICHARD P. DONOGHUE
United States Attorney

By: /s/
Moira Kim Penza
Tanya Hajjar
Kevin Trowel
Assistant U.S. Attorneys
(718) 254-7000

cc: Clerk of Court (NGG) (by ECF)
Counsel of Record (by ECF)